IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

OP.No. 16080 of 2002 (L)

---

PETITIONER:

---

K.AMMINI, L.D.CLERK,
TALUK HEAD QUARTERS HOSPITAL, KARIKODU,
THODUPUZHA.

BY ADV. SRI.K.RAMAKUMAR
SMT.SARITHA VRMA

RESPONDENTS:

---

1. THE SECRETARY TO GOVERNMENT,
HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANATHAPURAM.

2. THE DIRECTOR OF HEALTH SERVICE,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT.SUDHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 15/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP.No. 16080 of 2002 (L)

ORDER ON C.M.P.27180 OF 2002 IN
O.P.NO.16080 OF 2002

Dismissed.

Sd/-
15.11.2007 A.K.BASHEER, JUDGE

## APPENDIX

### PETITIONER'S EXHIBITS:

Ext.P1: True copy of the order dated 17.7.2000 issued by R2.

Ext.P2: True copy of the appeal submitted by the petitioner before R1.

Ext.P3: True copy of the order dated 19.5.2001 issued by R1.

// True copy //

P.A. to Judge
jes

**A.K.BASHEER, J.**

- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -

O.P.No.16080 OF 2002

- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -

Dated this the 15th day of November 2007

**JUDGMENT**

Petitioner while working as Lower Division Typist in the Department of Health was appointed as Lower Division Clerk in the same department. The said appointment was given to her on the advice of the Kerala Public Service Commission under the departmental quota.

2. According to the petitioner, later when she had approached the authority concerned claiming promotion as U.D. Clerk when it fell due, the Director of Health Services through Ext.P1 communication informed her that she would be eligible to get promotion only on the basis of the seniority in the cadre of L.D. Clerk. Petitioner preferred Ext.P2 appeal against the said order before respondent No.1. The appellate authority by Ext.P3 communication informed the petitioner that her request could not be allowed as per Note 2 under Rule 8 of Part II KS & SSR.

3. As rightly pointed out by the learned counsel for the petitioner, the appellate authority was not justified in disposing of the appeal in such a cryptic manner without considering any of the contentions raised by the petitioner. In other words, petitioner's

service tenure in the cadre of Lower Division Typist was refused to be taken in to account while reckoning total service seniority. A perusal of Ext.P3 order, which is impugned in this writ petition, undoubtedly shows that it is a totally non-speaking order.

4. In the above facts and circumstances of the case, I am satisfied that petitioner is entitled to succeed. Therefore, Ext.P3 is quashed. Respondent No.1 is directed to reconsider Ext.P2 appeal and pass a fresh order in accordance with law. While passing the order, it will be open to respondent no.1 to keep in view all the relevant rules regulations/orders, if any, governing the field. Needless to mention, the petitioner shall be afforded sufficient opportunity to be heard before any decision is taken in the matter. Respondent no.1 shall pass orders in the matter, as expeditiously as possible, at any rate, within four months from the date of receipt of a copy of this judgment.

Original petition is disposed of as above.

**(A.K.BASHEER, JUDGE)**

jes